

**19-6-426 Limitation of liability of state -- Liability of responsible parties -- Indemnification agreement involving responsible parties.**

- (1) This part is not intended to create an insurance program.
- (2) The fund established in this part shall only provide funds to finance costs for responsible parties who meet the requirements of this part when releases from petroleum storage tanks occur.
- (3) The assets of the fund, if any, are the sole source of money to pay claims against the fund.
- (4) The state is not liable for:
  - (a) any amounts payable from the fund for which the fund does not have sufficient assets;
  - (b) any expenses or debts of the fund; or
  - (c) any claim arising from the creation, management, rate-setting, or any other activity pertaining to the fund.
- (5) The responsible parties are liable for any costs associated with any release from the underground storage tank system.
- (6) This part does not preclude a responsible party from enforcing or recovering under any agreement or contract for indemnification associated with a release from the tank or from pursuing any other legal remedies that may be available against any party.
- (7) If any payment is made under this part, the fund shall be subrogated to all the responsible parties' rights of recovery against any person or organization and the responsible parties shall execute and deliver instruments and papers and do whatever else is necessary to secure the rights. The responsible parties shall do nothing after a release is discovered to prejudice the rights. In the event of recovery by the fund, any amount recovered shall first be used to reimburse the responsible parties for costs they are required to pay pursuant to Section 19-6-419.
- (8) Parties who elect to participate in the fund do so subject to the conditions and limitations in this section and in this part.

Amended by Chapter 172, 1997 General Session